

U.S. Department of Transportation  
**Federal Aviation Administration**

Subject: INFORMATION: Use of ARAC (Aviation Rulemaking Advisory Committee) Recommended Rulemaking not yet formally adopted by the FAA, as a basis for equivalent level of safety or exemption to Part 25.

Date: January 4, 2001

From: Manager, Transport Standards Staff, Aircraft Certification Service, ANM-110

Reply to 00-113-1034  
Attn. of:

To: SEE DISTRIBUTION LIST

**Summary:**

The applicants in a number of active projects (FD728JET, EMB-170, A3XX) are proposing to adopt draft FAA/JAA (Federal Aviation Administration)/(Joint Aviation Authorities) harmonized regulations into their certification basis. This memo describes a standardized, streamlined approach for the use of draft FAA/JAA harmonized regulations as a basis for an equivalent level of safety finding or an exemption to part 25.

**Background:**

The FAA and JAA have agreed to harmonize FAR/JAR 25 to the greatest extent possible. As proposed by the U.S. and European aviation industry, and as agreed between the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA), an accelerated process to reach harmonization has been adopted. This process is based on two procedures:

- a. "Enveloping" or accepting the more stringent of the regulation in Title 14 of the Code of Federal Aviation Regulations (FAR), part 25, and the Joint Airworthiness Requirements (JAR) (Category 1).
- b. Assigning approximately 41 already-tasked Significant Regulatory Differences (SRD), and certain additional part 25 regulatory differences, to one of two additional categories (Category 2, completed or near complete; and Category 3, Harmonize).

In November 1999, this harmonization initiative was officially tasked and called "Fast Track ARAC."

**Procedure:**

Under this procedure, the applicant may request to use ARAC recommended rulemaking that is not yet adopted by FAA. In general, the applicant may take one of two possible paths: request an equivalent level of safety finding justified by compensating factors that provide an equivalent or higher level of safety, or petition for an exemption.

The options described above are available, provided the following conditions are met:

- a. It is requested by the applicant.

b. The ARAC proposal has been forwarded by the Transport Aircraft and Engine Issues Group (TAEIG) or the Emergency Evacuations Issues Group (EEIG) to the FAA as a formal recommendation (which may include dissenting opinions or positions).

c. The ARAC proposal is considered an equivalent or higher level of safety by the FAA - Equivalent Safety Finding (ESF); or, if not, it is proposed by the applicant as being in the public's interest and will not adversely affect safety - Exemption.

For the ESF option, the applicant would be required to provide a brief description of the basis for the equivalent safety finding. This procedure would be applicable provided the proposed rulemaking has been forwarded by TAEIG or EEIG to the FAA as a formal recommendation. The applicant's written request for an equivalent safety finding would reference the regulations for which the ESF is requested and reference the draft regulation that will be the basis of the request. The applicant needs to differentiate between either "enveloped" Category 1, and rules that are not being enveloped (Categories 2 and 3). The request from the applicant will then be documented in the "Statement of Issue" in an issue paper.

If the rule in question is a Category 1 item, the decision regarding whether or not the ESF proposal meets criteria 'b' and 'c', above, would be made by the FAA and documented in the background section of the issue paper. If these criteria were not satisfied by the proposed rulemaking then the FAA Position to the issue paper will document the reasons why an ESF cannot be granted, and summarize the alternatives for certification of the product. If the FAA determines that the criteria are satisfied, the formal definition of the compensating factors for equivalency will be documented in the FAA Position of the issue paper.

If the proposed rule in question is a Category 2 or 3 item, a decision must be made whether or not an equivalent safety finding is appropriate. For controversial items where a strong dissenting opinion was voiced in the working group or could be expected by segments of the public who were not represented in the working group, an exemption may be a more appropriate solution.

Again, the decision regarding whether or not the proposal meets criteria 'b' and 'c', above would be made by the FAA and documented in the Background section of the issue paper.

If an exemption is the appropriate option, the applicant must provide reasons why it is in the public interest and would not adversely affect safety, per the requirements in 14 CFR 11.25. The applicant's petition for an exemption would reference the regulations for which the exemption is requested and reference the draft regulation that will be the basis of the request.

This procedure does not preclude the normal equivalent safety process or exemption process between the FAA and the applicant, irrespective of any ARAC status. The presumption, at the beginning of the certification process, is that the draft harmonized standard would be equivalent to the existing standard and that the resultant design will meet an equivalent level of safety. If, however, after reviewing the applicant's specific interpretation and application of the draft standard, it is determined that the level of safety is not retained, the FAA will not be in a position to grant an equivalent level of safety. In other words, the FAA will not guarantee a blanket approval of an equivalent level of safety without looking carefully at each individual case.

Original signed by Franklin Tiangsing for  
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